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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,554	09/09/2003	Joshua Susser	P-3709CNT	3094

7590 03/16/2007

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EXAMINER	
HENEGHAN, MATTHEW E	
ART UNIT	**PAPER NUMBER**
2134	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/659,554	SUSSER ET AL.	
	Examiner	Art Unit	
	Matthew Heneghan	2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 September 2003 and 12 January 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 30-57* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 30-57* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *09 September 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *9/9/03*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1 and 30-57 have been examined.

Priority

2. The instant application has been filed as a continuation of copending U.S. Patent Application No. 09/235,157, now U.S. Patent No. 6,633,984, filed 22 January 1999.

Information Disclosure Statement

3. The following Information Disclosure Statement in the instant application has been fully considered, except as otherwise noted:

IDS filed 9 September 2003.

4. In the IDS filed 9 September 2003, item 'E' on Sheet 2 was illegible and not considered; the first through fourth and sixth documents on Sheet 7 were not in English and not considered.

Specification

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The term "memory medium" as recited in claim 51 et al. is not used in the specification. It is being presumed that the term encompasses volatile and non-volatile memory and carrier waves.

Claim Objections

6. Claim 43 is objected to because of the following informalities: The term "said zero or more sets of instructions" in line 4 lacks antecedent basis. It is being presumed that the word "said" should be omitted. Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 55 and 56 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Each claim recites an invention that is entirely embodied in an intangible medium, a carrier wave.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 30-57 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 30, 43, 47, 51, 53, 55, 56, and 57 recite the execution of at least one instruction of a set of zero or more instructions in lines 10-11, 4, 12-13, 14-15, 15-16, 12-13, 13-14, and 13-14 respectively. Since these claims encompass a situation where one instruction is selected from zero sets of instructions, the claims are indefinite. It is being presumed that there is at least one set of instructions.

Claims 30, 47, 51, 53, 55, 56, and 57 further recite the referencing of at least two contexts from one or more contexts in lines 12-15, 14-17, 16-19, 17-20, 14-17, 15-18, and 15-18, respectively. Since this encompasses selecting two contexts from a set containing only one context, this also renders the claims indefinite. It is being presumed that there are at least two contexts.

Claims 31-42, 44-46, 48-50, 52, and 54 depend from rejected claims 30, 43, 47, 51, and 53 and include all the limitations of those claims, thereby rendering those dependent claims indefinite.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claim 1 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,633,984. Although the conflicting claims are not identical, they are not patentably distinct from each other because all of the limitations of claim 1 are anticipated by claim 1 of the '984 patent.

10. Claims 1, 30, 47, 51, 53, 55, 56, and 57 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2 of U.S. Patent No. 6,823,520. Although the conflicting claims are not identical, they are not patentably distinct from each other because all of the limitations of the claims are anticipated by claims 1-2 of the '520 patent. Since all programs have entry points, the accessing of such a program across a context barrier must necessarily involve the use of an entry point.

11. Claims 1, 30, 47, 51, 53, 55, 56, and 57 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,907,608. Although the conflicting claims are not identical, they are not patentably distinct from each other because all of the limitations of the claims are anticipated by claims 1-4 of the '608 patent. Since all programs have entry points, the accessing of such a program across a context barrier must necessarily involve the use of an entry point.

12. Claims 1 and 30-57 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,922,835. Although the conflicting claims are not identical, they are not patentably distinct from each other because all of the limitations of the instant application are anticipated by the claims of the '835 patent.

13. Claim 1 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 7,093,122. Although the conflicting claims are not identical, they are not patentably distinct from each other because all of the limitations of claim 1 are anticipated by claim 1 of the '122 patent.

14. Claims 1 and 30-57 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 23-50 of copending Application No. 10/995,926. Although the conflicting claims are not identical,

they are not patentably distinct from each other because the first three limitations of claim 1 of the '926 application of anticipate the first three limitation of claim 1 of the instant application; regarding the fourth limitation, since all programs have entry points, the accessing of such a program across a context barrier must necessarily involve the use of an entry point. Claims 30-57 correspond to claims 23-50 of the '926 application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

15. Claims 1 and 30-57 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/996,266. Although the conflicting claims are not identical, they are not patentably distinct from each other because the first three limitations of claim 1 of the '266 application of anticipate the first three limitation of claim 1 of the instant application; regarding the fourth limitation, since all programs have entry points, the accessing of such a program across a context barrier must necessarily involve the use of an entry point. Claims 30-57 correspond to claims 25-56 of the '266 application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

16. Claims 1 and 30-57 are rejected under 35 U.S.C. 102(b) as being anticipated by WIPO Patent Publication No. WO 97/06516 to De Jong.

As per claims 1, 30, 35, 41, 43, 45, 47, 49, 51, 53, and 55-57 De Jong discloses a small footprint device such as a smartcard (see abstract) having processing and memory means (see p. 16, lines 22-27) in which a context barrier exists to separate applications and data from one another. Zero or more sets of programs and data may interact with one another according to access conditions (see p.22, line 23 to p. 23, line 16). Entry points are enumerated in a data list (see p. 23, lines 17-26). The listing and enforcing of external interfaces for procedures, including restrictions according to principals and objects, constitutes a context barrier between the objects (see p. 19, line 11 to p. 21, line 31). The application description describing each object and its authorized interactions constitutes header data (see p. 18, line 12 to p. 19, line 10).

As per claim 31, separate names (name spaces) exist for each of the applications (see p. 31, lines 34-36).

As per claim 32, any programs, regardless of name space, may address any other, as per the data lists, above.

Regarding claims 33 and 34, since the applications exist in separate execution environments (see p. 31, lines 29-34), they must exist in separate memory spaces, as allocated by the OS.

Regarding claims 36, 38, 42, 46, 50, since functions may be invoked according to name or by memory pointer and its corresponding storage space, the corresponding security check results from that invocation.

Regarding claims 37 and 39, situations exist in which routines can be carried out without security checks (see p. 25, lines 26-31).

Regarding claim 40, 44, and 48, any information not for external access within an object may be protected, making it inaccessible to other modules (see p. 21, line 20 to p. 22, line 8)

Regarding claim 52 and 54, since the invention may involve communications with a terminal, the use of carrier waves in the necessary communications is inherent (see p. 17, lines 24-26).

Conclusion

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew E. Heneghan, whose telephone number is (571) 272-3834. The examiner can normally be reached on Monday-Friday from 8:30 AM - 4:30 PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand, can be reached at (571) 272-3811.

Any response to this action should be mailed to:
Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450
Or faxed to:
(571) 273-3800

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MEH

March 14, 2007

Matthew Heneghan, USPTO Art Unit 2134